

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Advanced Television Systems and their	)	MM Docket No. 87-268
Impact Upon the Existing Television	)	
Broadcast Service	)	

To: The Commission

**PETITION FOR RECONSIDERATION**

Davis Television Clarksburg, LLC (“*Davis*”), the permittee of WVFX-DT, Clarksburg, West Virginia, by its attorneys and pursuant to 47 C.F.R. § 1.106, hereby seeks reconsideration of the Commission’s Seventh Report and Order, FCC 07-138, released August 6, 2007, in the above-captioned proceeding (“*Seventh Report & Order*”).<sup>1</sup> In the Seventh Report & Order, the Commission adopted a new Table of Allotments for digital television (“DTV”) that provides all eligible stations with channels for DTV operations after the DTV transition on February 17, 2009. Appendix B to the DTV Table of Allotments specifies the technical facilities for each DTV station, including its effective radiated power (“ERP”), antenna height above average terrain (“HAAT”), antenna radiation pattern, and transmitter site coordinates. Davis hereby

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<sup>1</sup> Davis notes that the deadline for filing Petitions for Reconsideration of decisions in notice and comment rulemaking proceedings generally is triggered by the date of publication of the underlying decision in the Federal Register. 47 C.F.R. §1.106(f) & 47 C.F.R. §1.4(b)(1). However, the Note to Section 1.4(b)(1) provides that “[l]icensing and other adjudicatory decisions with respect to specific parties that may be associated with or contained in rulemaking documents are governed by the provisions of §1.4(b)(2).” Under that section, the Petition for Reconsideration filing deadline is triggered by the release date of the underlying decision. Given the ambiguity of the applicability of that Note to the ruling in the proceeding that affects Davis, out of an abundance of caution, Davis is filing this Petition for Reconsideration twice, now and again within thirty days of the date the Seventh Report & Order is published in the Federal Register.

seeks reconsideration of the Appendix B allotment facilities for Station WSWP-DT, Grandview, West Virginia. The Commission has allotted WSWP-DT an ERP of 18.6 kW on DTV Channel \*10. WSWP-DT is licensed to West Virginia Educational Broadcasting Authority (“WVEBA”).

### **Background**

In the Seventh Further Notice of Proposed Rule Making in this proceeding, 21 FCC Rcd 12100 (2006) (the “*Seventh FNPRM*”), the Commission proposed to authorize WSWP-DT to operate on DTV Channel \*10 at 2.5 kW ERP with an antenna HAAT of 314 meters. WVEBA filed comments in the Seventh FNPRM requesting that the Commission increase WSWP-DT’s allotted ERP from 2.5 kW to 20 kW because WVEBA claimed the operation of the station at the proposed 2.5 kW would not fully replicate its existing analog coverage. WVEBA also requested a waiver of the 0.1% interference standard because operation of WSWP-DT at 20 kW ERP would have resulted in interference to WVFX-DT in excess of that standard. Davis filed reply comments opposing WVEBA’s power increase and waiver request because the proposed 20 kW ERP for WSWP-DT exceeded the ERP necessary to replicate WSWP-TV’s analog service area, and the operation of WSWP-DT at 20 kW would cause substantially more interference to WVFX-DT than claimed by WVEBA.

In the Seventh Report & Order, the Commission agreed with Davis that WVEBA had overstated WSWP(TV)’s analog population coverage and that operation of WSWP-DT at 20 kW would exceed the station’s certified replication facilities. Seventh Report & Order at ¶ 123. However, because the Commission determined that operation of WSWP-DT at the proposed 2.5 kW would not fully replicate the station’s existing analog

coverage, it elected to analyze WSWP-DT's facilities using a "modified replication approach ...." On the basis of that analysis, the Commission concluded that operation of WSWP-DT at 18.6 kW would cause only 1.73% new interference to WVFX-DT. Since the 1.73% new interference to WVFX-DT exceeds the 0.1% interference standard, the Commission considered, and ultimately granted, WVEBA's request for waiver of the 0.1% interference standard on the grounds that WSWP-DT would have been eligible for a 2.0% new interference allowance using its NTSC Channel \*9. *Id.* at ¶¶ 124-125.

### **Argument**

As explained more fully in the attached Engineering Statement, which was prepared by Bernard R. Segal, P.E., Davis' consulting engineer, operation of WSWP-DT at 18.6 kW will result in interference to WVFX-DT in excess of 4.0%, which far exceeds the modified 2.0% interference allowance that the Commission deemed appropriate for WSWP-DT. Engineering Statement at 2-3. This conclusion is supported by the Commission's own interference calculations. Specifically, Appendix B to the Seventh Report & Order indicates that the "% Interference Received" value for WVFX-DT is 4.9%. In order to ascertain the source of this interference, Mr. Segal performed a comparison study of other allotments that contribute to the interference to WVFX-DT. Mr. Segal determined that the increase in the percentage of interference received for WVFX-DT from 0.9% (as reported in Appendix B to the Seventh FNPRM) to 4.9% (as reported in Appendix B to the Seventh Report & Order) is solely attributable to the changed allotment for WSWP-DT. Engineering Statement at 2. Mr. Segal's independent interference calculations confirm these findings (Engineering Statement at 3).

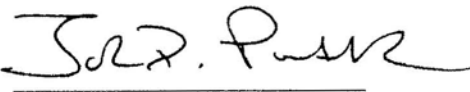
Finally, Mr. Segal analyzed WSWP-DT's facilities using the modified interference allowance adopted by the Commission. Mr. Segal concluded that the maximum ERP for WSWP-DT that will not result in interference to WVFX-DT in excess of the modified 2.0% interference standard is 8.6 kW, not 18.6 kW. Engineering Statement at 4.

**Conclusion**

For the reasons set forth herein, Davis respectfully requests that the Commission reconsider its decision in the Seventh Report & Order with respect to the Appendix B facilities allotted to Station WSWP-DT, Grandview, West Virginia, and modify those allotted facilities in accordance with the foregoing.

Respectfully submitted,

DAVIS TELEVISION CLARKSBURG, LLC

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September 5, 2007

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ENGINEERING STATEMENT  
IN SUPPORT OF PETITION FOR RECONSIDERATION  
SEVENTH REPORT AND ORDER AND  
EIGHTH FURTHER NOTICE OF PROPOSED RULE MAKING  
MB DOCKET NO. 87-268  
PREPARED FOR  
DAVIS TELEVISION CLARKSBURG, LLC  
STATION WVFX-DT, CLARKSBURG, WEST VIRGINIA

Davis Television Clarksburg, LLC (hereafter, Davis) is the permittee of Station WVFX-DT, Clarksburg, West Virginia, Channel 10. The instant Engineering Statement is in support of a Petition for Reconsideration of the FCC's action in the Seventh Report and Order and Eighth Further Notice of Proposed Rule Making in MB Docket No. 87-268 ( "Report and Order") which modified the Appendix B allotment facilities for Station WSWP-DT, Grandview, West Virginia, to reflect operation on Channel 10 with a maximum effective radiated power of 18.6 kW.

As demonstrated herein, the power allotted to WSWP-DT is excessive, and will result in interference to WVFX-DT that is well in excess of the 2 % threshold that the FCC has claimed is warranted and that serves as the rationalization for granting WSWP-DT a waiver of the 0.1 % interference limit.

In paragraphs 119 through 125 of the "Report and Order", the Channel 10 allotment to WSWP-DT is discussed, together with the underlying rationale for changing from a 0.1 % to a 2 % interference limitation for stations impacted by WSWP-DT. In paragraph 123, the FCC states that with WSWP-DT operating on Channel 10, with a maximum effective radiated power of 18.6 kW, the new interference to WVFX-DT will be 1.73 %. In paragraph 125, the FCC avers that with WSWP-DT operating at 18.6 kW on Channel 10, the 2 % interference limitation that is being sanctioned in this instance, in lieu of the 0.1 % standard, will not be exceeded.

Notwithstanding the FCC's statement that the interference to WVFX-DT would be less than 2 % from the WSWP-DT 18.6 kW operation, the Appendix B listing for WVFX-DT, and the undersigned's independent calculations show that the interference to WVFX-DT will exceed 4 % from the WSWP-DT, Channel 10, 18.6 kW, operation.

Figure 1 is a copy of the relevant page of Appendix B from the "Report and Order" that includes the listings for WVFX-DT and WSWP-DT. The facilities for these two stations have been highlighted by arrows in the margins. The "% Interference Received" column shows 4.9 % for the Clarksburg, Channel 10, (WVFX-DT), facility. The same page shows the Grandview, Channel 10, (WSWP-DT) allotment with ERP of 18.6 kW using Antenna ID 80261.

Figure 2 includes copies of the relevant pages of Appendix B from the Seventh Further Notice of Proposed Rule Making ("Further Notice") that show the initially proposed allotments for WVFX-DT and WSWP-DT. The WVFX-DT and WSWP-DT proposed allotments have been highlighted by arrows in the margins. The "% Interference Received" listing for WVFX-DT shows 0.9 % for the same operating parameters for WVFX-DT as in Appendix B in the "Report and Order". In Appendix B of the "Further Notice", the facilities for WSWP-DT are for operation on Channel 10 with maximum ERP of 2.5 kW and the use of Antenna ID 74706.

A comparison study of other allotments that cause interference to WVFX-DT (WTOV-DT, Steubenville, OH, CH 9; WCPO-DT, Cincinnati, OH, CH 10; WOIO-DT, Shaker Heights, OH, CH 10; and WHTM-DT, Harrisburg, PA, CH 10) in the two Appendices B, shows that the facilities are unchanged. Hence the difference in the percentage interference received, from 0.9 to 4.9, for WVFX-DT is attributable, solely, to the changed allotment facilities for WSWP-DT from 2.5 kW to 18.6 kW with different antennas.

The Appendix B listing in the "Report and Order" contradicts the FCC's assertion in Paragraph 123 that the 18.6 kW allotment for WSWP-DT will result in 1.73 % new interference to WVFX-DT. The FCC's underlying rationale for granting the 0.1 %

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interference standard waiver for the 18.6 kW allotment for WSWP-DT is founded on a faulty premise.

The undersigned has performed independent calculations, as well. A Sun computer and the algorithm developed by William Meintel, who, also, developed the FCC's algorithm, were employed. The "tv\_process\_pt" program, with the FCC's standard settings and the 2000 Census, were employed. The facilities for WVFX-DT were those in BMPCDT-20020930AAV, which correspond to the facilities used for WVFX-DT in Appendix B of the "Report and Order". The facilities for WSWP-DT were assigned USERRECORD01, and corresponded to the 18.6 kW, Pattern ID 80261, facilities shown in Appendix B of the "Report and Order".

The following results were obtained, succeeded on the last two lines by the FCC's Appendix B results from the "Report and Order":

	Population (2000 Census)	Area (km <sup>2</sup> )
Within WVFX-DT noise-limited contour:	731,402	25,498
Not affected by terrain losses:	595,295	23,058
Lost to all IX without WSWP-DT	4,446	109
Lost to all IX with WSWP-DT	29,189	1,160
Percent lost to all IX	4.9	5.0
Interference from WSWP-DT	24,743	1,050
Percent IX from WSWP-DT	4.2	4.6
Served with WSWP-DT	566,106	21,898
Served with WSWP-DT per Appendix B	566,000	21,897
Percent lost to all IX per Appendix B	4.9	

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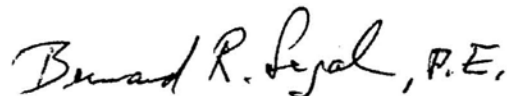
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The undersigned's population results agree exactly with the FCC's Appendix B results when rounding is taken into account. Only a 1 square kilometer difference occurs in the area calculation. The agreement in results is excellent.

The undersigned has demonstrated that the conclusions reached by the FCC in paragraphs 123 and 125 regarding the extent of interference caused to WVFX-DT are in error. In a separate calculation, the undersigned has determined that with the use of Antenna ID 80261 for WSWP-DT, the maximum effective radiated power must not exceed 8.6 kW in order to not cause interference to WVFX-DT that exceeds 2 %.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 4, 2007.



Bernard R. Segal, P. E.

Maryland Registration # 25811



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**FIGURE 1**  
**EXCERPT FROM "APPENDIX B"**  
**SEVENTH REPORT AND ORDER**  
**AND**  
**EIGHTH FURTHER NOTICE OF PROPOSED RULE MAKING**  
**MB DOCKET NO. 87-268**

Facility ID	State and City		NTSC	DTV								
			Chan	Chan	ERP (kW)	HAAT (m)	Antenna ID	Latitude (DDMMSS)	Longitude (DDMMSS)	Area (sq km)	Population (thousand)	% Interference Received
417	WV	CHARLESTON	11	19	475	514		382428	815413	37278	1306	0.6
73189	WV	CHARLESTON	29	39	1000	350	40580	382812	814635	25868	924	2
71280	WV	CHARLESTON	8	41	475	514		382428	815413	33607	1168	3.1
10976	WV	CLARKSBURG	46	10	30	235	44599	391802	802037	21897	566	4.9
71220	WV	CLARKSBURG	12	12	11.3	262	80238	391706	801946	22848	585	2
71680	WV	GRANDVIEW	9	10	18.6	305	80261	375346	805921	24852	649	2.1
23342	WV	HUNTINGTON	13	13	16	396	70338	383021	821233	27894	1025	4.7
36912	WV	HUNTINGTON	3	23	724	402		383036	821310	33731	1182	0.6
71657	WV	HUNTINGTON	33	34	63.1	379	74962	382941	821203	16566	734	1.4
74169	WV	LEWISBURG	59	8	3.68	577		374622	804225	26153	590	1.7
23264	WV	MARTINSBURG	60	12	23	314		392727	780352	24936	2480	6.2
71676	WV	MORGANTOWN	24	33	145	457	74963	394145	794545	20788	1370	0.5
66804	WV	OAK HILL	4	50	1000	236	80182	375726	810903	18914	515	1.7
4685	WV	PARKERSBURG	15	49	47.4	193		392059	813356	12781	348	2.2
70592	WV	WESTON	5	5	9.96	253	74344	390429	802528	27452	568	0.5
6869	WV	WHEELING	7	7	15.5	293	74497	400341	804508	25673	2373	0.1
82575	WY	CASPER	6	6	1	536	74715	424426	1062134	20136	70	0
68713	WY	CASPER	13	12	3.2	534	74727	424426	1062134	18050	70	0
63177	WY	CASPER	14	14	53.3	573	74389	424426	1062134	25030	70	0
18286	WY	CASPER	2	17	741	588		424403	1062000	40682	80	0.1
74256	WY	CASPER	20	20	52.4	582	74425	424437	1061831	21652	70	0
18287	WY	CHEYENNE	33	11	16	650	67257	403247	1051150	28369	2763	0
40250	WY	CHEYENNE	27	27	169	232	74478	410255	1045328	13499	438	0
63166	WY	CHEYENNE	5	30	630	189		410601	1050023	18799	415	2.9
1283	WY	JACKSON	2	2	1	293	74378	432742	1104510	17622	31	0
35103	WY	JACKSON	11	11	3.2	327	74724	432742	1104510	10697	22	0
63162	WY	LANDER	5	7	31.7	82	74964	425343	1084334	15754	32	2.8
10036	WY	LANDER	4	8	60	463	74965	423459	1084236	36626	35	0.6
10032	WY	LARAMIE	8	8	3.2	318	74718	411717	1052642	12970	109	0.1
21612	WY	RAWLINS	11	9	3.2	70	74966	414615	1071425	9432	11	0
21613	WY	RIVERTON	10	10	13.9	526	74402	432726	1081202	26335	49	0.1
63170	WY	ROCK SPRINGS	13	13	14.2	495	74448	412621	1090642	33002	43	0
81191	WY	SHERIDAN	7	7	3.2	349	74717	443720	1070657	12316	28	0
17680	WY	SHERIDAN	12	13	50	372		443720	1070657	32735	52	0

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**FIGURE 2**  
**EXCERPT FROM "APPENDIX B"**  
**SEVENTH FURTHER NOTICE OF PROPOSED RULE MAKING**  
**MB DOCKET NO. 87-268**

Facility ID	State and City		NTSC	DTV								
			Chan	Chan	ERP (kW)	HAAT (m)	Antenna ID	Latitude (DDMMSS)	Longitude (DDMMSS)	Area (sq km)	Population (thousand)	% Interference Received
2710	WI	LA CROSSE	25	17	450	349	29449	434815	912220	25884	487	0.7
18780	WI	LA CROSSE	31	30	308	351		434817	912206	25909	420	0
10221	WI	MADISON	47	11	15	471	30020	430321	893206	28968	1508	6
6870	WI	MADISON	15	19	56	387		430303	892913	21196	1026	3.9
6096	WI	MADISON	21	20	100	453		430321	893206	26579	1250	1.2
64545	WI	MADISON	27	26	400	455	33126	430321	893206	30128	1450	1.3
65143	WI	MADISON	3	50	603	466		430321	893206	32793	1639	2.5
68547	WI	MAYVILLE	52	43	300	186		432611	883134	16768	1878	7.9
18793	WI	MENOMONIE	28	27	291	350		450249	915147	26276	743	13.7
42663	WI	MILWAUKEE	10	8	25	354	67092	430546	875415	29509	3035	1.4
74174	WI	MILWAUKEE	18	18	368	302	74698	430544	875417	22781	2496	3.6
72342	WI	MILWAUKEE	30	22	196	297	42943	430544	875417	19180	2440	1.3
71278	WI	MILWAUKEE	24	25	625	340	41342	430544	875417	26207	2873	1.1
74098	WI	MILWAUKEE	4	28	1000	305	74959	430529	875407	30594	2856	4.5
73107	WI	MILWAUKEE	6	33	1000	305	74960	430524	875347	30009	2916	0.6
65680	WI	MILWAUKEE	12	34	863	263	59757	430642	875542	23265	2660	0
42665	WI	MILWAUKEE	36	35	500	355	66933	430546	875415	25395	2769	0.1
71427	WI	MILWAUKEE	58	46	1000	322	32644	430642	875550	27046	2827	1.9
63046	WI	PARK FALLS	36	36	50	445	74583	455643	901628	22223	139	0
68545	WI	RACINE	49	48	176	303	74961	430515	875401	17104	2279	0.1
49699	WI	RHINELANDER	12	16	538	489	28605	454003	891229	38587	375	0
33658	WI	SUPERIOR	6	19	433	315		464721	920651	45444	386	0
73042	WI	SURING	14	21	450	332	43297	442001	875856	20367	938	0.2
6867	WI	WAUSAU	7	7	16.9	369	74555	445514	894131	31741	531	0.1
64546	WI	WAUSAU	9	9	17	369	75014	445514	894131	31158	526	0.8
73036	WI	WAUSAU	20	24	200	387		445514	894128	27234	487	0.3
86204	WI	WITTENBERG	55	50	160	327	74788	450322	892754	18272	378	1.2
37806	WV	BLUEFIELD	40	40	1000	386	74377	371308	811539	24131	705	1.2
74176	WV	BLUEFIELD	6	46	1000	361		371521	811055	24972	695	0.3
417	WV	CHARLESTON	11	19	475	514		382428	815413	37278	1306	0.6
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10976	WV	CLARKSBURG	46	10	30	235	44599	391802	802037	22787	589	0.9
71220	WV	CLARKSBURG	12	12	6.55	262	74602	391706	801946	20742	524	1

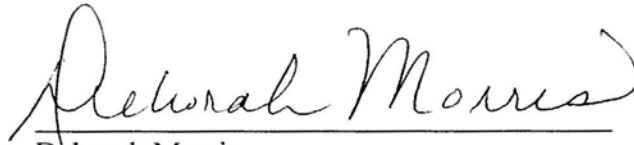
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71676	WV	MORGANTOWN	24	33	145	457	74963	394145	794545	20788	1370	0.5
66804	WV	OAK HILL	4	4	2.73	236	75048	375726	810903	20811	580	3
4685	WV	PARKERSBURG	15	49	47.4	193		392059	813356	12809	348	2.1
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6869	WV	WHEELING	7	7	15.5	293	74497	400341	804508	25673	2373	0.1
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68713	WY	CASPER	13	12	3.2	534	74727	424426	1062134	18050	70	0
63177	WY	CASPER	14	14	53.3	573	74389	424426	1062134	25030	70	0
18286	WY	CASPER	2	17	741	588		424403	1062000	40682	80	0.1
74256	WY	CASPER	20	20	52.4	582	74425	424437	1061831	21652	70	0
18287	WY	CHEYENNE	33	11	16	650	67257	403247	1051150	28369	2763	0
40250	WY	CHEYENNE	27	27	169	232	74478	410255	1045328	13499	438	0
63166	WY	CHEYENNE	5	30	630	189		410601	1050023	18799	415	2.9
1283	WY	JACKSON	2	2	1	293	74378	432742	1104510	17622	31	0
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63162	WY	LANDER	5	7	31.7	82	74964	425343	1084334	15754	32	2.8
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21613	WY	RIVERTON	10	10	13.9	526	74402	432726	1081202	26119	49	0.2
63170	WY	ROCK SPRINGS	13	13	14.2	495	74448	412621	1090642	33006	43	0
81191	WY	SHERIDAN	7	7	3.2	349	74717	443720	1070657	12316	28	0
17680	WY	SHERIDAN	12	13	50	372		443720	1070657	32735	52	0
51233	GU	AGANA	8	8	3.2	282		132553	-1444236			
25511	GU	AGANA	12	12	38.9	75		132613	-1444817			
29232	GU	TAMUNING	14	14	50	1		133009	-1444817			
3255	PR	AGUADA	50	50	50	343	74700	181906	671049	13067	853	2.3
71725	PR	AGUADILLA	12	12	7.31	665	74705	180900	665900	35964	1570	1.9

CERTIFICATE OF SERVICE

I, Deborah Morris, do hereby certify that a copy of the foregoing "Petition for Reconsideration" was mailed by First Class U.S. Mail, postage prepaid, this 5<sup>th</sup> day of September, 2007, to the following:

Kenneth E. Satten, Esq.  
Wilkinson Barker Knauer LLP  
2300 N. Street, NW  
Washington, DC 20037-1128

Counsel to West Virginia Educational Broadcasting  
Authority

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Deborah Morris